

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PAULINE MONTGOMERY,

Plaintiff,

v.

MADERA DEPT. OF CORRECTIONS, et  
al.,

Defendants.

No. 1:23-cv-00919-JLT-SAB (PC)

ORDER VACATING FINDINGS AND  
RECOMMENDATIONS, AND GRANTING  
PLAINTIFF THIRTY DAYS TO FILE AN  
AMENDED COMPLAINT

(ECF Nos. 13, 14)

Plaintiff is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

Plaintiff's complaint in this action was filed on June 20, 2023. (ECF No. 1.)

On September 28, 2023, the Court screened the complaint, found that Plaintiff failed to state a cognizable claim for relief, and granted Plaintiff thirty days to file an amended complaint. (ECF No. 10.)

Plaintiff failed to file an amended complaint or otherwise respond to the September 28, 2023 order. Therefore, on November 7, 2023, the Court issued an order for Plaintiff to show cause why the action should not be dismissed. (ECF No. 11.) Plaintiff failed to respond to the order to show cause. Accordingly, on December 1, 2023, Findings and Recommendations were issued to dismiss the action for failure to state a cognizable claim for relief, failure to comply with

1 a court order and failure to prosecute. (ECF No. 13.)

2 On December 14, 2023, Plaintiff filed objections to the Findings and Recommendations.  
3 (ECF No. 14.) In her objections, Plaintiff submits that around the time she was required to  
4 respond to the Court's September 2023 order she was in the process of transferring prison  
5 facilities and she was placed in the enhanced outpatient program. (Id.) Based on Plaintiff's  
6 representations in her objections, the Court will vacate the Findings and Recommendations and  
7 grant Plaintiff thirty days to file a second amended complaint.

8 Accordingly, it is HEREBY ORDERED that:

- 9 1. The Findings and Recommendations issued on December 1, 2023 (ECF No. 13)  
10 are VACATED;
- 11 2. Within thirty (30) days from the date of service of this order Plaintiff shall file a  
12 second amended complaint in accordance with the Court's September 28, 2023,  
13 screening order; and
- 14 3. Failure to comply with this order will result in a recommendation to dismiss the  
15 action for failure to state a cognizable claim for relief, failure to comply with a  
16 court order and failure to prosecute.

17 IT IS SO ORDERED.

18 Dated: **December 15, 2023**

19   
20 UNITED STATES MAGISTRATE JUDGE